

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

CHARLOTTE COX,)	
)	
Plaintiff,)	Case No.:
v.)	
)	
MIDLAND CREDIT MANAGEMENT, INC.))	PLAINTIFF'S COMPLAINT
)	
Defendant.)	
)	
)	
)	
)	
)	

PLAINTIFF'S COMPLAINT

Plaintiff, CHARLOTTE COX ("Plaintiff"), through her attorneys, McNulty & Associates, alleges the following against Defendant, MIDLAND CREDIT MANAGEMENT, INC. ("Defendant"):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1337, and 15 U.S.C. §1692k (FDCPA).
3. Venue and personal jurisdiction in this District are proper because Defendants do or transact business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

4. Plaintiff is a natural person residing in the Caryville, Campbell County, Tennessee.

5. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*.
6. Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
7. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*.
8. Within the last year, Defendant sought to collect an alleged consumer debt from Plaintiff.
9. Defendant is a collection agency headquartered in San Diego, California.
10. Defendant's business includes, but is not limited to, collecting on unpaid, outstanding account balances.
11. When an unpaid, outstanding account is placed with Defendant it is assigned an account number.
12. The principal purpose of Defendant's business is the collection of debts allegedly owed to third parties.
13. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.
14. During the course of its attempts to collect debts allegedly owed to third parties, Defendant sends to alleged debtors bills, statements, and/or other correspondence, via the mail and/or electronic mail, and initiates contact with alleged debtors via various means of telecommunication, such as by telephone and facsimile.
15. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

16. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Credit One Bank, original account number ending in 3271, Defendant's account number

8535853041 (“Account”).

17. Plaintiff’s alleged debt owed arises from transactions for personal, family, and household purposes.

18. In 2011, Defendant was hired to collect on the Account.

19. On March 18, 2011, Defendant mailed a collection letter to Plaintiff regarding the Account. *See* Defendant’s letter attached as Exhibit A.

20. Plaintiff is a member of Debt Counsel for Seniors and the Disabled (DCSD).

21. One of Defendant’s fax numbers is 800-561-7567.

22. On April 12, 2011, DCSD faxed a cease and desist letter to Defendant. *See* DCSD’s letter and fax confirmation attached as Exhibit B.

23. On April 12, 2011, Defendant received DCSD’s cease and desist letter attached as Exhibit B.

24. On August 30, 2012, Defendant mailed a collection letter to Plaintiff regarding the Account. *See* Defendant’s letter attached as Exhibit C.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

25. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff’s cease and desist letter.

WHEREFORE, Plaintiff, CHARLOTTE COX, respectfully requests judgment be entered against Defendant, MIDLAND CREDIT MANAGEMENT, INC., for the following:

26. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

27. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
15 U.S.C. 1692k,

28. Any other relief that this Honorable Court deems appropriate.

Respectfully Submitted,

By: /s/ Michael McNulty
Michael McNulty
TN Bar #: 025974
McNulty & Associates
211 Printers Alley, Suite 400
Nashville, Tennessee 37201
Tel: 615-829-8250
Fax: 615-346-5208
Michael@McNultyAssociatesTN.com

EXHIBIT A

EXHIBIT B



April 12, 2011

BY FAX ONLY: 800-561-7567

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Collections Manager
Midland Credit Management
P.O. Box 603
Oaks,, PA 19456

Re: Charlotte Cox
Your reference # 8535853041 - Credit One Bank: Ending in 3271
Our file # 9894

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal debt collection laws. Debt Counsel for Seniors and the Disabled exclusively represents clients who are senior citizens, disabled or both and whose only income (e.g. social security, disability, etc.) is protected by federal law. This client regrets not being able to pay however, at this time they are insolvent as their monthly expenses exceed the amount of income they receive.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with **15 U.S.C. § 1692g**. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collection any amount from our client through credit reporting or any other means. Please be advised that the continuation of collection activity without adequately responding to the validation request, could result in a lawsuit against you pursuant to **15 U.S.C. § 1692g(b)**.

As the client's attorney, I respectfully inform you that you must **cease** contacting them pursuant to **15 U.S.C. § 1692c(a)(2) and 1692c(c)**. I have attached a signed **cease and desist** order from my client(s). If and when you violate these statutes, I will not hesitate to pursue with local co-counsel all legal remedies on behalf of my client(s).

Sincerely,

Jerome S. Lamet
Supervising Attorney
Debt Counsel for Seniors and the Disabled

Cc: Charlotte Cox

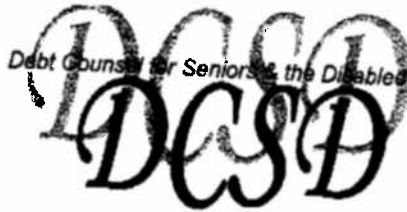
Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-27411

TRANSMISSION VERIFICATION REPORT

TIME : 04/12/2011 09:53
NAME : JEROME LAMET LTD
FAX : 13123563199
TEL : 13129392221
SER. # : BROD8J797996

DATE, TIME 04/12 09:51
FAX NO./NAME 18005617567
DURATION 00:01:10
PAGE(S) 03
RESULT OK
MODE STANDARD
ECM



April 12, 2011

BY FAX ONLY: 800-661-7567
Page 1 of 3

Collections Manager
Midland Credit Management
P.O. Box 803
Oaks,, PA 19456

Re: Charlotte Cox
Your reference # 8635853041 - Credit One Bank: Ending in 3271
Our file # 9894

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal debt collection laws. Debt Counsel for Seniors and the Disabled exclusively represents clients who are senior citizens, disabled or both and whose only income (e.g. social security, disability, etc.) is protected by federal law. This client regrets not being able to pay however, at this time they are insolvent as their monthly expenses exceed the amount of income they receive.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with 15 U.S.C. § 1692g. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collection any amount from our client through credit reporting or any other means. Please be advised that the continuation of collection activity without adequately responding to the validation request, could result in a lawsuit against you pursuant to 15 U.S.C. §1692g(b).

As the client's attorney, I respectfully inform you that you must **cease** contacting them pursuant to 15 U.S.C. § 1692c(a)(2) **and** 1692c(c). I have attached a signed **cease and desist** order

EXHIBIT C



Dept. 12421
PO Box 603
Oaks, PA 19456

OCT 9 2012

08-30-2012

Contact Information: Tel (800) 265-8825

Hours of Operation: Sat-Th 5am - 2pm Pacific Time

Current Owner: Midland Funding LLC

Original Creditor: CREDIT ONE BANK

Original Account No.: 4447961116373271



2345-297



#BWNHLTH
#0000 0853 5853 0419#
CHARLOTTE COX
139 RIDGEVIEW CIR
CARYVILLE, TN 37714-3541

MCM Account No.: 8535853041

Current Balance: \$1,767.39

Payment Due Date: UPON RECEIPT

John
Fax # 877-201-8692

Dear CHARLOTTE COX,

Midland Credit Management, Inc. is the **SERVICER** of the above-mentioned **CREDIT ONE BANK** account. This is a demand for payment. Please include a check or money order for the Current Balance due. Once the balance has been received, the three major credit reporting agencies will be notified that the account is paid in full.*

Please do not hesitate to contact me at (800) 265-8825, Ext.52613 if you have any questions.

Please understand this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Calls to and/or from this company may be monitored or recorded.

Sincerely,

Roy Cunningham X52613,C447
Midland Credit Management, Inc.

*Your credit report will not be updated if the federal reporting period has expired.

This collection agency is licensed by the Collection Services Board of the Department of Commerce and Insurance.

Las llamadas desde y hasta esta compañía podrán ser monitoreadas o grabadas.

MAIL PAYMENTS TO: P.O. Box 60578, Los Angeles, CA 90060-0578

MAIL CORRESPONDENCE BUT NO PAYMENTS TO: MCM's business address at 8875 Aero Drive, Suite 200, San Diego, CA 92123

As of the date of this letter you owe the amount listed as Current Balance. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. To obtain an exact payoff amount, or for further information, please call one of our Account Managers at (800) 265-8825.

Please tear off and return lower portion with payment in envelope provided

Payment Certificate

MCM Account Number: 8535853041

Current Balance: \$1,767.39

Amount Due: \$1,767.39

Make Check Payable to: Midland Credit
Management, Inc.

Payment Due Date: UPON RECEIPT

For ease and convenience, make payments
online and view additional offers at:

www.midlandcreditonline.com



Midland Credit Management, Inc.
P.O. Box 60578
Los Angeles, CA 90060-0578



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